Single Bench

of 1002

(3)

IN THE HIGH COURT OF JUDICATURE CHHATTISGARH AT BILASPUR

W.P.NO. 4423 /2004

PETITIONER : Mohammed Haneef
S/o Late Abdul Razzak,
Aged about 40 years,
R/o Village Basna-Saraipali,
District-Mahasamund (CG).

VERSUS

RESPONDENTS :

1) State of Chhattisgarh
Through the Secretary,
Revenue Department,
DKS Bhawan, Raipur (CG).

2) The Collector,
Mahasamund, Distt.Mahasamund, CG

3) The Sub Divisional Officer
(Revenue)
Saraipali, Distt.Mahasamund, CG.

4) The Tahsildar,
Basna-Saraipali,
District-Mahasamund (CG).

P.R. No. 4504
Presented by Shri Yatindra Nath
dated 7/7/2004

WRIT PETITION UNDER ARTICLE 226/227 OF THE CONSTITUTION OF INDIA

1) Particulars of the petitioner

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उच्च न्यायालय, छत्तीसगढ़, बिलासपुर

आदेश पत्रक

मामला क्रमांक W.P.No. 4423 सन् 2004

विरुद्ध

आदेश का दिनांक आदेश क्रमांक सहित	आदेश हस्ताक्षर सहित	कार्यालयीन मामलों में डिप्टी रजिस्ट्रार के अन्तिम आदेश
	25.11.2004: - Shri P.Diwakar, counsel for the petitioner. Shri N.K.Agrawal, Dy.A.G. for the State/respondents. The petitioner has preferred this Writ Petition under Article 226/227 of the Constitution of India being aggrieved by the action of respondent No.3/Sub-Divisional Officer (Revenue), Sarai Pali, District-Mahasamund whereby name of the petitioner has not been included in the voter list of Nagar Panchayat, Basna. The case of the petitioner is that he is resident of village Basna-Sarai Pali, District-Mahasamund and he is a business and belongs to reputed family of the town. Earlier Basna was Gram Panchayat and now the same has been declared as Nagar Panchayat. The elections of the local body have already been declared and the process would start from 22.11.2004 to 29.11.2004. The petitioner is aspiring to contest the election of the President of Nagar Panchayat, Basna. But to his utter surprise when he enquired from the office of the Collector about his name in the voter list then he was informed that his name has been omitted from the voter list and the current voter list is filed as Annexure P/1. The name of the mother of the petitioner finds place at serial No. 342. However, the names of the petitioner and other family members have been deliberately deleted from the voter list. When in the year 1999 the election of the Gram Panchayat was held, the name of the petitioner was at serial No. 1208 which is evident from Annexure P/2. The name of the brother of the petitioner namely Daud Bhai and the name of his sister-in-law namely Roshan Bano were at serial No.	

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आदेश का दिनांक आदेश क्रमांक सहित	आदेश हस्ताक्षर सहित — 2 —	कार्यालयीन मामलों में डिप्टी रजिस्ट्रार के अन्तिम आदेश

1206 and 1207 respectively in the old voter list and at serial No. 1209 name of Shakila Bano, wife of the petitioner and at serial No. 1210 name of Mohammad Sabbir, brother of the petitioner and at serial No. 1211 name of wife of brother of the petitioner namely Zahira Bano were in the old voter list. Further case of the petitioner is that he made an application before the Collector, Mahasamund who directed respondent No. 3, the Sub-Divisional Officer (Revenue), Sarai Pali, District-Mahasamund to take appropriate steps and on 09.11.2004 the S.D.O. registered the case and called for the records from respondent No. 4, Tehsildar, Basna and the next date was given as 10.11.2004. The petitioner apprised the S.D.O. that someone to misguide the petitioner included his name in the voter list at serial No. 263 and 264 and after perusal of the said list the S.D.O. found that,the name of the petitioner has wrongly been shown at serial No. 263 and 264. However, the impugned order (Annexure P/3) was passed by the S.D.O. in which he has admitted that the petitioner is entitled for inclusion of his name. But since there is no fault on behalf of the administration, the petitioner ought to have made an application for inclusion of his name in the voter list in appropriate time. This report was sent to the Collector.

Learned counsel appearing for the petitioner submitted that as the report is with the Collector, the petitioner may be directed to make a representation before the Collector and the Collector may be directed to decide the representation on merits of the case. Learned counsel further submitted that proviso to Rule 9 of Chhattisgarh Nagarpalika Nirvachan Niyam, 1994 provides that clerical, technical or printing error or omission, apparent on the face of the record, regarding a voter may

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आदेश का दिनांक आदेश क्रमांक सहित	आदेश हस्ताक्षर सहित -3-	कार्यालयीन मामलों में डिप्टी रजिस्ट्रार के अन्तिम आदेश

be corrected by the Registration Officer at any time before the last date and time fixed for making nomination under Rule 21. Therefore, in view of the above proviso, the petitioner is entitled for inclusion of his name in the voter list as the SDO himself has admitted in his order (Annexure-P/3) that the petitioner is entitled for inclusion of his name in the voter list.

On the other hand, learned Dy.A.G. appearing for the State/respondents argued that when the provisional list was published, at that time the petitioner ought to have submitted an application for inclusion of his name. Now, the prescribed time limit is expired, therefore the petitioner could not do so. Therefore, in the original list his name was not mentioned.

I have heard learned counsel for the respective parties and perused the records.

The proviso appended to Rule 9 of the Chhattisgarh Nagarpalika Nirvachan Niyam, 1994 makes it clear that if any clerical, technical or printing error or omission is noticed then the appropriate authority is entitled to include the name of any person in the voter list. In the earlier voter list published in the year 1999 the name of the petitioner was mentioned and the S.D.O. himself has admitted in his order (Annexure P/3) that the petitioner is entitled for inclusion of his name in the voter list. In the circumstances, the request made by the petitioner appears to be fair, reasonable and just. Therefore, the petitioner is directed to

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आदेश का दिनांक आदेश क्रमांक सहित	आदेश हस्ताक्षर सहित — ५ -	कार्यालयीन मामलों में डिप्टी रजिस्ट्रार के अन्तिम आदेश
	file a representation before the Collector by tomorrow. Learned counsel appearing for the petitioner submitted that tomorrow is holiday. In this view, the petitioner can make his representation at the residence of the Collector and the Collector should decide the same on its merits by 27th November, 2004. In view of the above direction, the petition is disposed of. Parties are entitled for certified copy of this order today itself. Sd/- L.C.BHADOO Judge	

Brajesh

[पीछे देखिये